UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION
- - -

Harry G. Beyoglides, Jr.,
Special Administrator of the
Estate of Robert Andrew
Richardson, Sr., Deceased,
Plaintiff,

vs. Case No. 3:14-CV-00158

Phil Plummer/Montgomery County
Sheriff, et al.,
Defendants

- - -

DEPOSITION OF ZACHARY LIMMER

the Witness herein, called by the Plaintiff under the applicable Rules of Civil Procedure, taken before me, Whitney Layne, a Notary Public for the State of Ohio, at the law firm of Dinkler & Pregon, 5335 Far Hills Avenue, Suite 117, Dayton, Ohio 45429 on December 8, 2015 at 4:00 p.m.

LAYNE & ASSOCIATES
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APPEARANCES

NICHOLAS DICELLO, ESQUIRE
SPANGENBERG, SHIBLEY & LIBER
1001 Lakeside Avenue
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Cleveland, Ohio 44114
on behalf of the Plaintiff

JAMEY PREGON, ESQUIRE
DINKLER & PREGON
5335 Far Hills Avenue
Suite 123
Dayton, Ohio 45429
on behalf of the Sheriff Defendants

ALYSS BAUTE, ESQUIRE
REMINGER CO., LPA
525 Vine Street
Suite 1700
Cincinnati, Ohio 45202
on behalf of the Defendants NaphCare, Inc., Nurse Felicia Foster, Nurse Jon Boehringer, Nurse Krisandra Miles, Medic Steven Stockhauser, and Brenda Garrett Ellis, M.D.

December 8, 2015
Tuesday Session
4:00 p.m.

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STIPULATIONS

It is stipulated by and among counsel for the respective parties that the deposition of ZACHARY LIMMER, the Witness herein, called by the Plaintiff under the applicable Rules of Civil Procedure, may be taken at this time by the notary Whitney Layne; that said deposition may be reduced to writing in stenotypy by the notary, whose notes thereafter may be transcribed out of the presence of the witness; and that the proof of the official character and qualification of the notary is waived.

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ZACHARY LIMMER

Being first duly sworn, as hereinafter certified, deposes and says as follows:

CROSS-EXAMINTION

BY MR. DICELLO:

Q Good afternoon. Could you please introduce yourself and spell your last name for us?

A I'm Zachary Limmer. Last name is L-I-M-M-E-R.

Q Mr. Limmer, my name is Nick DiCello. We met briefly off the record. I represent the family of Robert Richardson who you probably know died in the Montgomery County Jail back in May of 2012. And we're here today for a deposition in connection with a lawsuit that's been filed against the Montgomery County Sheriff's Office, some corrections officers, NaphCare, and some of NaphCare's employees. Do you understand that?

A Yes.

Q And you understand you're here to have your deposition taken in connection with that case that's pending?

A Yes.

Q Have you ever been deposed before?

A No.

Q All right. Let's go over just some basic rules

so you understand how this process works. It will make it quicker and easier for you to understand.

A Okay.

Q As we've been doing, I ask the questions, you provide the answers. Understood?

A Yes.

Q If you don't understand a question that I've asked, I want you to tell me that.

A Okay.

Q Given that understanding that we have, if you answer a question that I've asked, I'm going to assume you understood it. Is that fair?

A Yes.

Q You're doing a nice job, but you have to make all your answers audible; yes, no, or words. No shrugs, uh-huhs, huh-uhs, nods of the head, that kind of thing, okay?

A Yes.

Q From time to time if you do that, we may remind you. It's not to be rude, it's just to get a clear record, okay?

A Yes.

Q You've also done a nice job, but we have to make sure we wait for each other to stop talking. Because

the court reporter is transcribing everything that we say, and if we're talking at the same time, she can only do about ten minutes of that before she can't do it anymore. So wait until I'm done asking the question, I'll wait until you're done answering, even though you're going to know what I'm asking.

A Okay.

Q Okay? You understand you're under oath today?

A Yes.

Q Ever testified in a court?

A Yes.

Q So you understand the oath you're under today is the same kind of oath that you take when you testify in front of a judge and a jury in a court of law?

A Yes.

Q Any reason you couldn't answer truthfully today?

A No.

Q If you need a break for any reason, let me know, we'll do it. I would just ask that if a question has been put to you, answer the question first, and then say, "Nick, I want a break," okay?

A Okay.

Q If something jogs your memory about a question

that I've asked earlier or an answer you've given, I want you to take the opportunity today during the deposition to go back and correct something you've said or supplement any answer you've given, okay?

A Yes.

Q Because sometimes that happens, your memory is jogged ten minutes from now. Just come out and say, "oh, Nick, you know, you asked me earlier about this, I just remembered." Okay?

A Yes.

Q You are currently employed with the Montgomery County Sheriff's Office; true?

A Yes.

Q You're a corrections officer?

A Yes.

Q How long have you been a CO?

A Five years, going on that mark, I do believe.

Q I want to ask some personal questions. It's not to pry, but just to get a little understanding of your background. Are you from this area?

A Germantown area, yes.

Q And did you attend high school in Germantown?

A Yes.

Q When did you graduate high school?

A 2008.

Q And did you go to college after high school or any formal education after high school?

A During high school, I was in a community -- community tech college.

Q And what were you studying there?

A Animal protection and care.

Q Did you pursue any kind of career in animal protection and care?

A No.

Q Tell me a little bit about your employment background.

A I was a stock boy and then a butcher and then here.

Q Okay.

A Montgomery County Sheriff's Office.

Q Are you intending on pursuing a career in corrections or law enforcement?

A No.

Q So why don't you tell me a little bit about why you chose or wound up with a job as a corrections officer.

A I needed money and benefits at the time, and I was thinking about becoming a police officer. But I opted to go with my family route into firefighting.

Q So are you a firefighter?
A I'm working on it. I take the test I believe in March.
Q Okay. Good luck.
Knowing that you'll pass the test, what's the plan after that?
A I really don't know. Just keep on doing it until I see what happens. If I don't like it, then move on to something else.
Q You're going to try to become a firefighter?
A Yes.
Q So how long have you been working at the jail?
A Should be about five years.
Q And have you always been stationed at the jail or have you ever been stationed at the court?
A Jail.
Q Did you review any documents to prepare for today's deposition, Mr. Limmer?
A No.
Q Did you review the video at all?
A Yes.
Q How many times have you watched the video?
A Once.
Q And when was that?

A I had it maybe two days ago.
Q Did you watch the whole thing?
A I watched the part where I was involved, basically.
Q Okay. Back on May 19th of 2012, that's when this happened. I should ask you: Independent of watching the video, do you remember May 19th, 2012, the incident involving Mr. Richardson?
A Very vaguely.
Q May 19th, 2012, I think we figured out, was a Sunday?
MR. PREGON: Saturday.
MR. DICELLO: Exactly.
BY MR. DICELLO:
Q May 19th, 2012 was a Saturday.
MR. DICELLO: Thank you.
BY MR. DICELLO:
Q Do you remember what shift you were working back in May of 2012 on a Saturday?
A 2012? I'd be on 3:30 to 11:30 p.m.
Q So you arrived to work, and basically as you arrived this situation involving Mr. Richardson was ongoing or had just started?
A Correct.

Q True?
A (Nods head.)
Q How did you learn about what was happening?
A We have radios that we carry on us, at which point they -- I believe a medical emergency call came out.
Q Where were you assigned in the jail on May 19th, 2012?
A At that point in time, since I had just came on duty, my assignment wouldn't have been placed yet.
Q So was the policy that once you heard this broadcast over the radio that you were to respond?
A Typically we respond in numbers. And then once we get there, if we're not needed, we report to other locations as needed.
Q So how long after arriving at work did you respond to D Pod?
A I couldn't tell you the exact time.
Q Can you approximate it?
A Since last shift was still there and there's a majority of them, I would say maybe 3:20?
Q Okay. So that's what time you arrived at work?
A On -- No, I arrived at work at probably 3:00 on the dot, because I typically like to get there 30 minutes before.

Q Okay.
A But I thought you meant when we arrived in Delta Pod.
Q Understood.
When you responded to Delta Pod, did you respond alone or with other officers, if you know?
A I can't remember.
Q When you arrived on Delta Pod, why don't you tell me what you remember seeing. If you don't remember, just tell us.
A From my memory, I do not remember. The only thing I can tell you what I seen is from the video. But I personally don't remember.
Q So based on your review of the video, at what point in time did you arrive? Who was there? What was happening when you first see yourself in the view of the camera?
A I know when I arrived, as per the camera, they already had him on the ground and medical was there trying to assess the situation.
Q Who from medical was there; do you remember? Or based on the video?
A Oh --
MR. PREGON: Based on the video? I don't think

he remembers.
BY MR. DICELLO:
Q Yeah, based on the video, who was there when you arrived?
MR. PREGON: Could you tell from the video who was in there?
THE WITNESS: Yeah.
A Krisandra --
BY THE WITNESS:
Q Miles? Or was it Kruse? Nurse Krisandra?
A Yes, Nurse Krisandra.
Q What about Steve Stockhauser?
A Yeah, Stockhauser.
Q And was Mr. Richardson cuffed behind his back at the time you arrived, if you know?
A Yes.
Q Did you report to anyone when you arrived, like a sergeant?
A No.
Q When you arrived, did any sergeant give you any instructions on what to do?
A At the time of arrival, no. How --
MR. PREGON: Arrival at the jail or arrival at the scene?

BY MR. DICELLO:
Q Let me clear it up.
A Yeah.
Q At the time you arrived at Delta Pod on scene where this incident was developing with Mr. Richardson, I think you're telling us that no sergeant, upon arrival, gave you instructions; true?
A No.
Q Okay.
A When I arrived in Delta Pod, I believe I was ordered to get the restraint -- emergency restraint chair.
Q It's actually called the safety restraint chair, isn't it?
A I believe we call it --
MR. PREGON: Objection. I don't think you're right.
BY MR. DICELLO:
Q Have you ever seen the manual for the chair?
A No.
Q Go ahead. I interrupted you. I apologize.
A We had to get the emergency restraint chair. Unbeknownst to me at the time, it was already in route. So I go down from the upper level to the beginning of the pod, at which point CO Smiley had already got it up and I

was tasked with trying to get it up the stairs.
Q Were you able to do that?
A I got it halfway up before his condition took a turn for the worse, at which point I responded with the AED. At least that's what it looks like on camera. I personally don't remember grabbing the AED.
Q When you were in Delta Pod, do you remember hearing Mr. Richardson saying anything?
A No.
Q Do you remember hearing any of the corrections officers say anything?
A No.
Q Do you remember any of the corrections officers laughing or smiling during the incident?
A No.
Q Did you ever go hands-on at all with Mr. Richardson?
A No.
Q The time that you were there, can you describe the position that you saw Mr. Richardson in?
A He was --
MR. PREGON: Based on the video or his memory? Because he already said he doesn't remember.
BY MR. DICELLO:

Q So you have no memory of Mr. Richardson's position?
A To be honest -- I know he was placed on his stomach with his hands behind his back, at which point he was also moved over and turned and on his side so medical could assess him. However, he was on his stomach. I mean, I really don't remember. Because I was up and down, up and down the stairs. I was not up there for a good period of time.
Q What was your understanding why you were to retrieve the restraint chair?
A Due to his size. And I know he was actively resisting the officers, because medical couldn't get him assessed, he kept moving around. We were going to get him in the restraint chair and then get him transported downstairs so we have more room to work on him and more ability to control him.
Q Have you ever been trained at the Montgomery County Sheriff's Office in the risks associated with positional asphyxia?
A Yes.
Q What's your understanding of what positional asphyxia is?
A When you are laying on your stomach and unable

to move, you can -- basically, it stops you from breathing.

Q And so what's your understanding of what the policies and procedures are that are supposed to be followed to avoid positional asphyxia in the jail?

A It's -- We use it as a -- I guess not to keep them on their stomach for extended periods of time.

Q What do you consider to be an extended period of time?

A Maybe more -- No more than a minute, maybe two.

Q Have you received any training or do you have an understanding that there are certain characteristics about a person that put them at higher risk of positional asphyxia?

A Yes.

Q And I'm going to -- I call them risk factors. Do you understand what a risk factor is for --

A (Nods head.)

Q Yes?

A Yes.

Q So I'm going to name some risk factors, and you tell me if you agree that they are risk factors that increase the risk for somebody dying from positional asphyxia, okay?

A Okay.

Q Obesity.

A Yes.

Q And particularly within the definition of obesity, someone who has a large belly is at a high risk of positional asphyxia; did you understand that back in May of 2012?

A Yes.

Q Somebody who has preexisting heart disease. Is that a risk factor that you're aware of that can increase the risk of positional asphyxia?

A Yes. However, I wouldn't be -- I wouldn't know his medical history.

Q Well, if you agree that -- Do you agree that it's important for corrections officers to know what the risk factors are that a patient -- or that a detainee has that increase the risk of positional asphyxia?

MR. PREGON: Object to form.

A HIPAA law. I can't know of any medical condition that they have.

BY MR. DICELLO:

Q That's your understanding?

A Uh-huh.

Q Yes?

A Yes.

Q So it's your -- So I don't know if I got it. I think you said preexisting heart disease is a risk factor that increases the risk of positional asphyxia; true?

A It could be, yes.

Q But you as a corrections officer, it's your understanding that you're never going to know if that's the case?

A I'm not privy to that knowledge.

Q Okay. Have you ever had a medical person from the jail report to you, just as an example, this man is a diabetic, he needs this, that, or the other, anything like that?

A They come up here and administer medication as needed. I provide the inmate for them.

Q Ever had a situation where a detainee was being restrained and a medical person came over and said, "this guy has got preexisting heart disease, he can't be restrained this way"? Ever had any experience like that?

A They would tell us to move him if they needed him moved.

Q Just to move him?

A Move them in a more suitable position for them.

Q So you rely on the medical staff, to some

extent, to give you information as to whether a particular restraint position may be contraindicated for any individual detainee. Is that fair?

Do you want me to say it again?

A Yes.

Q To some extent, the corrections staff in your experience relies on the medical staff to communicate to the corrections staff whether any particular restraint position might be contraindicated for that detainee; fair?

A And dangerous to the inmate?

Q Yes.

A Yes.

Q While you were on scene on Delta Pod on May 19th, 2012, do you recall hearing anyone from medical make any recommendations, suggestions, or instructions about repositioning Mr. Richardson?

A No.

Q Back to the risk factors of positional asphyxia. Did you understand in May of 2012 that being on your belly was a risk factor?

A Yeah.

Q And having your hands cuffed behind your back while you're on your belly was a risk factor?

A Yes.

Q Pressure on the back is a risk factor for positional asphyxia when they're in a prone position; true?

A Yes.

Q Pressure on the shoulders, on the back of the shoulders, you know, the shoulder blades, did you understand that that was a risk factor for positional asphyxia?

A Like say right here (indicating)?

Q Yeah. And you're reaching over and touching your left shoulder blade?

A Yes. It could be.

Q And what about pressure on the neck and head while someone is in a prone position? Did you understand that that was a risk factor that could increase the risk of death from positional asphyxia?

A It could be.

Q A struggle, having struggled with anyone, officers, did you understand that that increases the risk that the detainee could die from positional asphyxia if in the prone position?

A Yes.

Q What about foam or mucus coming from the mouth or nose?

A Wasn't close enough. I wouldn't be able to tell.

Q But did you understand that that could be a sign or symptom that someone is suffering from positional asphyxia?

A That can also be just from a struggle. I mean --

Q Okay.

A I've seen people foam at the mouth all the time, even after just a basic fight.

Q While you were on scene, did you see anyone ever try to get Mr. Richardson up, roll him onto his back, before he stopped breathing?

A On his back?

Q (Nods head.)

A No. However, on the video, I did watch it, and they are trying to get him on his side for a little bit, and then he goes back to his stomach. I think one of the officers got out a blanket so he wouldn't hit his head on the stairs, because he kept basically moving around so much. Or not the stairs, but more like the railing.

Q Are you familiar with the written policies and procedures governing restraint in the jail?

A I'm familiar with our, I can't remember our

agency now, OPOTA.

Q OPOTA?

A Uh-huh.

Q Yes?

A Yes.

Q And that's the Ohio Peace Officers Training Academy; correct?

A Yes.

Q That's for police officers, isn't it?

A And correction facilities.

Q Were you trained through OPOTA?

A Yes.

Q Are you familiar with the actual Montgomery County Jail's written policies and procedures on restraint?

A Are you talking about the use of force continuum?

Q No.

A Then -- Are you talking about -- I guess let me --

Q General Orders.

A Yeah. Let me get a --

Q Go ahead.

A Are you talking about Montgomery County

Sheriff's policy or Montgomery County in general?

Q I'm talking about Montgomery County Sheriff's policies that apply to the Montgomery County Jail on restraint.

A Okay.

Q Are you familiar that those exist?

A Yes.

Q Do you agree those are supposed to be followed as written?

A Yes.

Q Those written policies, as written, do you understand that they indicate that placing members of the community who are detained in the Montgomery County Jail in handcuffs in a prone position is never an acceptable practice and is prohibited?

MR. PREGON: Object to form.

Go ahead.

A Read it again.

BY MR. DICELLO:

Q Are you aware that the written policies and procedures governing restraint in the Montgomery County Jail, as written, indicate that placing people, members of the community who are detained at the Montgomery County Jail, in handcuffs in a prone position is never an

acceptable practice and is prohibited?

MR. PREGON: Objection.

Go ahead.

A This may be true. However, it says placing -- placing an individual in a prone position with handcuffs. Typically, they're only in prone positions for a short amount of time so we can move them. It allows us to gain control over them. Because if we were to try to handcuff, say, someone on their back, we would constantly be getting swung at.

BY MR. DICELLO:

Q So I think what you're telling me, the rule, the rule as you understand it in the jail, is you can cuff somebody in a prone position, but then the general rule is you need to get them off their belly as soon as possible; correct?

A Correct.

Q And the reason that's the rule is because it's important to protect the detainee from positional asphyxiation?

A Correct.

MR. PREGON: Objection.

BY MR. DICELLO:

Q Do you understand that restraints must never be

him; true?

MR. PREGON: Objection. Object to form.

A If we had control over him, then we would have been able to get him downstairs and into the medical room where he needed to be.

BY MR. DICELLO:

Q Do you think that you needed more corrections officers there or do you think there was enough there to get control over the situation?

MR. PREGON: Objection to form.

A To be honest with you --

BY MR. DICELLO:

Q Yeah, that's what we're looking for.

A I couldn't tell you.

Q With respect to -- You're trained on the use of force; true?

A Yes.

Q And the rule is that corrections officers may only use force that is reasonable under the circumstances, that's the rule?

A Yes.

Q And the rule is that corrections officers must only use force that is reasonably necessary under the circumstances; true?

applied in ways that restrict breathing?

A Yes.

Q That's one of the jobs of corrections officers, is to abide by that rule, that you never put restraints on somebody that can restrict breathing; true?

A Yes.

Q You watched the video?

A Uh-huh.

Q Did the corrections officers use force against Mr. Richardson?

MR. PREGON: Objection.

A Not as to our use of force continuum.

BY MR. DICELLO:

Q So your testimony is that no force was used against Mr. Richardson?

A Not as to fill out like a use of force form. Was he -- were we trying to gain control over him? Yes. But were there any strikes? No. Were there any takedowns? No. Were there any pepper spray or taser? No.

Q The corrections officer --

A I guess --

Q That's fine.

The corrections officers did have control over

MR. PREGON: Objection.

A Yes.

BY MR. DICELLO:

Q That's how you understand the rule; correct?

A Yes.

Q And so force under the circumstances that is unnecessary is excessive force; correct?

MR. PREGON: Objection; legal conclusion.

But go ahead.

A Yes.

BY MR. DICELLO:

Q And that's how you understand it; right?

A Yes.

Q And do you agree that corrections officers must never restrain members of the community in ways that pose an unnecessary risk of death?

MR. PREGON: Object to form.

A That depends. If we need to gain control of the subject and there's already people around that can get hurt, we have to do anything in our ability to gain control.

BY MR. DICELLO:

Q So your testimony, what you're telling me, is that there are circumstances --

A Yes.
Q -- where corrections officers can restrain members of the public that poses an unnecessary risk of death to the patient?
MR. PREGON: Object to form.
A You're saying "unnecessary."
BY MR. DICELLO:
Q Yeah. That's what I said the first time I asked the question.
A I must have missed that.
Q Do you want me to try again?
A No, I can go ahead and add on. "Unnecessary" means there's absolutely no way anybody can get hurt. At this point in time, someone was able to get hurt. We had medical staff up there, and if he wasn't handcuffed, he could easily swing on them. We had other officers on the second tier. He's big enough, if he wanted to, he could throw one of us off.
Q Did he ever try to do any of those things?
MR. PREGON: Objection.
BY MR. DICELLO:
Q That you know of?
A It's not if he could -- It's not if he did, it's if he could.

Q I could right now.
A Yes.
MR. PREGON: You're not in a jail right now.
MR. DICELLO: Okay.
BY MR. DICELLO:
Q Is it your understanding based on your training that -- because you are trained on what the law allows and doesn't allow; right?
A Uh-huh.
Q Yes?
A Yes.
Q Is it your training through the Montgomery County Sheriff's Office that the law allows you to restrain people because of what could happen?
MR. PREGON: Objection to form.
A It allows us to make -- I have to word my words right, I guess. It allows us to assess a situation and make a decision at that point in time for the safety of everybody.
BY MR. DICELLO:
Q Does there have to be some reasonable suspicion that someone is going to be violent, or can you just enter a situation and say, this guy has two hands and two arms and he could kill me, so --

MR. PREGON: Objection. Objection to form.
A When it takes a couple officers to stop him from moving just so medical can assess him, that is a risk factor.
BY MR. DICELLO:
Q If presented with two or more ways to restrain somebody, do we agree that the corrections officer must choose the safer way?
MR. PREGON: Object to form.
A No.
BY MR. DICELLO:
Q So you're telling us that faced with two or more ways to restrain someone, it's okay for corrections officers to choose a more dangerous way of restraint?
MR. PREGON: Object to form.
A If we're able to restrain him in a way that we can quickly gain some kind of control over him, we do there, at which point we can reposition and change it.
BY MR. DICELLO:
Q Do you know why Mr. Richardson was never rolled onto his back?
A Medical never told them to.
Q Based on your experience and understanding at the jail and what you saw on video and what limited memory

you have, I think that's fair to say, if medical had instructed corrections officers to roll Mr. Richardson on his back, could that have been accomplished with the number of COs you had there?
MR. PREGON: Objection.
A Yes.
BY MR. DICELLO:
Q Do you know whether the use of prone restraint is prohibited in the State of Ohio?
MR. PREGON: Objection.
A Other than the asphyxiation, no.
BY MR. DICELLO:
Q What do you mean by that, "other than the asphyxiation"?
A Well, I can see why it would be prohibited, because it can lead to death. So --
Q I'll ask maybe a finer point.
A Yep.
Q Have you ever been shown or trained on any executive order that was issued by the governor of the State of Ohio starting back in 2009 that bans prone restraint across all state agencies?
MR. PREGON: Objection.
Go ahead.

A No.
BY MR. DICELLO:
Q Am I, the lawyer representing a man who died in the jail back in 2012, am I the first person who is notifying you of that executive order?
MR. PREGON: Objection to the extent it calls for privileged communications.
A Yes.
BY MR. DICELLO:
Q Yes?
A Yes.
Q So until me, a civil rights lawyer, told you that since 2009 the governor of the State of Ohio has instructed and ordered a ban on all prone restraint, you had never heard about it before; correct?
MR. PREGON: Same objection.
A No.
BY MR. DICELLO:
Q I got to say, Mr. Limmer, you do look a little surprised by this. Is that fair to say?
MR. PREGON: Objection.
A Yeah.
BY MR. DICELLO:
Q Are you surprised that the Montgomery County

Sheriff's Office didn't make you aware about this executive order?
A Yes. Do you have the order?
Q Well, it seems --
MR. PREGON: You can't ask him questions.
THE WITNESS: I'm sorry.
BY MR. DICELLO:
Q It's all right. It seems you're interested in having that to do your job; right?
A Yes.
Q And after leaving here, I suspect you're probably going to go look it up?
A Yes.
Q Can you bear with me just a couple of minutes? I'm going to go through my notes.
A That's fine.
Q I don't think I have much, if anything, more for you.
(Pause in proceedings.)
BY MR. DICELLO:
Q A couple other follow-ups. Did you have any concerns while you were on the D Pod that Mr. Richardson was armed with a weapon?
A Could have been.

Q Did you ask anybody, "Does this guy have a weapon on him"?
A No.
Q Did you ever hear anybody say, "Frisk him, see if he's got a weapon"?
A That at the time was not our major priority.
Q But wouldn't protecting the officers' safety be a reason to see if he had a weapon on him?
A If he's handcuffed and there's that many officers around, we need to get him medical treatment.
Q So it sounds based on your answer that even though you didn't know if he had a weapon or not, based on him being handcuffed behind the back, you weren't concerned that he was going to somehow produce a weapon and injure you with it?
A No, he could. However, we had enough around him that they would be able to stop him if he did.
Q I've deposed a number of your fellow corrections officers in this case already. They sat right where you are and I've asked them questions. And none of them have testified that Mr. Richardson had violated any jail rules on May 19th, 2012. Did you see him violate any rules?
MR. PREGON: Objection.

But go ahead.
A No.
BY MR. DICELLO:
Q And the record will speak for itself, but my memory of their testimony, the other COs that I've deposed and sergeants and those guys, have told me that on May 19th, 2012, they never saw Mr. Richardson commit any crime. When you were there, did you witness Mr. Richardson commit any crime?
MR. PREGON: Objection.
Go ahead.
A No.
BY MR. DICELLO:
Q The D Pod in terms of housing and classification, I learned this through asking people like yourself these questions, but do you understand that that's where members of the community who are at low risk of violence are housed?
A Yes.
Q You were summoned to D Pod because a detainee had a medical condition; correct?
A Correct.
Q And part of the jobs of the corrections officers is to get the detainee medical help; correct?

A Correct.
Q I'm asking from personal memory now, because I know -- I know it's limited, but sometimes just talking about it will refresh your recollection. So I'm not asking about the video, I'm asking about your recollection. Do you remember how Mr. Richardson appeared, whether he appeared disoriented, angry, sad, anything like that?
A No.
Q Did you ever see his face?
A No.
Q Did you hear any of the other detainees say anything while you were up there?
A (Shakes head negatively.)
Q Did anyone ever interview you about what happened?
A No.
Q No?
A No.
Q Did you complete a narrative statement?
A No.
Q I've got -- This is Exhibit 1. And showing you what's been Plaintiff's Exhibit 1, I think this is an incident report that has a number of different narratives

from people that they entered into the Tiburon system?
A Uh-huh.
Q Yes?
MR. PREGON: You have to say yes.
A Yes.
BY MR. DICELLO:
Q Did you fill out a narrative report in the Tiburon system about the incident?
A I believe I didn't.
Q And what was the reason for that?
A I did not have any major --
Q Involvement?
A Involvement, thank you.
Q That's okay.
You did witness a man die while being restrained by corrections officers; true?
MR. PREGON: Objection.
A No. Well, yes.
MR. PREGON: He said he wasn't up there when that happened.
A Right. I was up and down, so I didn't really see a lot of it.
BY MR. DICELLO:
Q Okay. I appreciate that.

I think you said as you were carrying the restraint chair up the stairs, you learned that Mr. Richardson's condition worsened?
A Worsened, yes.
Q What did you do after that?
A I went down to the desk and retrieved the AED.
Q And so when you returned with the AED, what was Mr. Richardson's condition?
A He was on his back and CPR I do believe was being started.
Q According to -- I'm looking at a scene log. And the scene log -- Do you remember getting the AED with CO Wittman?
A I think -- No.
Q Because -- I'll just show you my copy here. And ignore these numbers at the bottom. This is the old set that I'm not supposed to be using. But according to -- I'm showing you, it's a scene log?
A Right.
Q And it shows -- Let's find when Limmer enters. I think it's 15 -- so 15:23 you enter the pod?
A Uh-huh.
Q Yes?
A Yes.

Q So that would be 3:23?
A 3:23.
Q In the afternoon. So your 3:20 was pretty close.
A Yeah.
Q Okay. Maybe your memory is not as bad as you think it is.
MR. PREGON: Objection.
BY MR. DICELLO:
Q And then when do you first exit the pod according to the scene log? You can read better than I can upside down.
A I believe 15:26.
MR. PREGON: That says "in pod." "Exit pod" is right above it.
BY MR. DICELLO:
Q So you witnessed what happened for about 23 minutes?
A No. Because right about here, the restraint chair comes into it, at which point, if you -- I think it's the far video, you see me struggling with it for quite some time getting it up those stairs. I think I only made it halfway.
Q When you say "the far video," what do you mean?

A There's the video in the middle that is zoomed in.

Q Yes.

A And then there's the video where they got all this information from that views the door.

Q Okay.

A Yeah.

Q Have you seen that video?

A Uh-huh.

Q Yes?

A It's part of the -- both of them.

MR. DICELLO: That was produced?

MR. PREGON: I'm pretty sure it would have been. You should have like a selection of, I don't know what it was, however many angles there was.

A Basically, there's a camera in the middle that zoomed into --

BY MR. DICELLO:

Q The cell 544?

A -- the situation. And then you're going to see another video that shows the desk and the door behind it.

Q Okay.

MR. PREGON: And there's one from like the hallway. There's several different cameras.

A I didn't see those.

MR. PREGON: Unless I'm confusing this with another case. It seems like there's one in the outer that has nothing to do with this.

MR. DICELLO: I've been looking at it on my iPad, and I can't manage the software.

MR. PREGON: Chances are you have it.

BY MR. DICELLO:

Q Looking at the scene log, it says you enter pod, and then you exit pod, and there's a 23-minute interval between those two times; agreed?

A Yes.

Q So what are you doing during that 23 minutes?

A Once the chair arrived, which would have been probably about --

Q 15:44?

A Yeah. I would have been working on that.

Q Okay, so between 15:23 and 15:44. Now we've got 21 minutes; correct?

A Yeah.

Q So for 21 minutes, you were in the D Pod doing what?

A Waiting on orders, I guess.

Q Just observing what was happening?

A To be honest with you, I don't remember.

Q Okay. That's all right.

Did you try to provide any lifesaving care?

A No.

Q Did Mr. Richardson ever hurt anybody to your knowledge?

A I don't even know what his charges were, so --

Q I mean on May 19th, 2012.

MR. PREGON: Object to form.

A Oh.

BY MR. DICELLO:

Q Did he hurt anybody?

MR. PREGON: Object to form.

A On that date, I'm not aware. He could have been, but I wouldn't know.

BY MR. DICELLO:

Q I'm just asking what you're aware of. Are you aware as to whether or not Mr. Richardson hurt anyone on May 19th, 2012?

A No.

Q Did you ever receive any kind of different or new training as a result of Mr. Richardson's death?

A As a result? No.

Q Did you ever participate in any meeting where

any supervisor provided a debriefing about what happened with Mr. Richardson?

A I might have, but I don't remember it.

Q As you sit here today, you don't remember sitting in any such meeting; correct?

A That is fair.

Q Did anybody ever inform -- you understood on May 19th, 2012 that Mr. Richardson died; correct?

A Yes.

Q Did you ever ask anybody how did he die?

A No.

Q Did anybody come tell you how he died?

A Actually, I think at one point in time someone said a heart attack or a mass coronary. But I'm not for sure.

Q Do you remember who that person was?

A No.

Q So people who find themselves detained at the Montgomery County Jail come to find themselves there for all different kinds of reasons; agreed?

A Yes.

Q And they are all members of the community; correct?

A Yes.

Q And part of your job as a corrections officer is the care, custody, and control of those members of the community; true?

A Yes.

Q So do you understand that part of your job is serving those people who are detained at the jail?

MR. PREGON: Object to form.

A To an extent, yes.

BY MR. DICELLO:

Q In fact, that's what you spend all day everyday doing for them; correct?

A Yes.

Q You make sure they get their food, you make sure they can touch base with their lawyers, if they need medical care, you have to be involved in making sure that they get all those things; right?

A Get their clothes and all of that, yes.

Q So a member of our community who was in the care, custody, and control of the Montgomery County Jail died one day when you were there; correct?

A Yes.

Q And nobody from the sheriff's office ever reported to you about how he died or what happened; is that fair?

A They could have, I just don't remember.

Q Were you interested in understanding what happened?

A No.

Q Why not?

A Because I just wasn't.

Q You just don't care?

MR. PREGON: Objection.

A I wouldn't say I don't care, no. I do care. But it's -- I don't need it to keep on going. I don't need to know why. I just keep on going. Do I feel bad that he did die? Yes. But I don't need to know the information of how he died. I just don't.

BY MR. DICELLO:

Q Do you think knowing how he died might help you perform your job to make sure something like this doesn't happen in the future?

MR. PREGON: Objection to form.

A I didn't have any hands-on care with the inmate nor did I really see him. So --

BY MR. DICELLO:

Q Okay. All right.

A -- it would not help me.

Q All right. Have you talked with any of the other corrections officers or sergeants who were involved in this situation about what happened after it happened that you remember?

A I think I reported everything that I did. And that would be about the most I did.

Q Who did you report that to?

A Oh, Sergeant -- I can't even remember which sergeant was on our shift.

Q Maybe Lewis or Jackson?

A Yeah.

Q One of those two?

A Or maybe Sergeant Wayland.

Q Or maybe Sergeant Wayland. Do you know how old Mr. Richardson was when he died?

A No.

Q Do you know if he had any children?

A No.

Q Did you do anything to try to learn anything about Mr. Richardson?

A No.

Q Those are all the questions I have.

A Thank you.

Q Thank you.

MR. PREGON: We'll read.

- - -

(Signature not waived.)

- - -

And, thereupon, the deposition was concluded at 4:50 p.m.

- - -

December 22, 2015

Dear Mr. Limmer,

You have chosen to read and sign your transcript. Please do not mark on the transcript. Any corrections/changes you may desire to make in your testimony should be typewritten or printed on the errata sheet at the end of testimony, giving the page number, line number and desired correction/change. After you have read the transcript, sign your name on the correction sheet and where indicated at the close of testimony before a notary public.

The Rules of Civil Procedure allow thirty days for you to read and sign. Please return the signature page and errata sheet to Whitney Layne, 6723 Cooperstone Drive, Dublin, Ohio 43017 within that time. Failure to do so in the allotted time will result in your transcript being used as though read and signed by you.

Sincerely,

_____

Whitney Layne
Professional Reporter

Cc:
Nick DiCello
Carrie Starts
Jamey Pregon

State of _____

County of _____

I, ZACHARY LIMMER, do hereby certify that I have read the foregoing transcript of my deposition given on December 8, 2015; that together with the correction page attached hereto noting changes in form or substance, if any, it is true and correct.

_____

ZACHARY LIMMER

I do hereby certify that the foregoing transcript of the deposition of ZACHARY LIMMER was submitted to the witness for reading and signing; that after he had stated to the undersigned Notary Public that he had read and examined his deposition, he signed the same in my presence on the ____ day of _____, 2015.

_____

Notary Public

My Commission Expires on _____

- - -

State of Ohio

County of Montgomery

I, ZACHARY LIMMER, do hereby certify that I have read the foregoing transcript of my deposition given on December 8, 2015; that together with the correction page attached hereto noting changes in form or substance, if any, it is true and correct.

Zachary Limmer 1160

ZACHARY LIMMER

I do hereby certify that the foregoing transcript of the deposition of ZACHARY LIMMER was submitted to the witness for reading and signing; that after he had stated to the undersigned Notary Public that he had read and examined his deposition, he signed the same in my presence on the 24th day of January, 2015.

Notary Public

My Commission Expires on May 2, 2018

- - -

NOTARY PUBLIC STATE OF OHIO

ROSCO S. BENSON, Notary Public
In and for the State of Ohio
My Commission Expires May 2, 2018

TO THE REPORTER:

I have read the entire transcript of my deposition taken on the 8th day of December, 2015, or the same has been read to me. I request that the following changes be entered upon the record for the reasons indicated.

Page	Line	Correction and reason therefore

Date 1-24-16 Signature [signature] 1160

CERTIFICATE

State of Ohio :

County of Franklin:

I, Whitney Layne, Notary Public in and for the State of Ohio, duly commissioned and qualified, certify that the within named ZACHARY LIMMER was by me duly sworn to testify to the whole truth in the cause aforesaid; that the testimony was taken down by me in stenotype in the presence of said witness; afterwards transcribed upon a computer; that the foregoing is a true and correct transcript of the testimony given by said witness taken at the time and place in the foregoing caption specified.

IN WITNESS WHEREOF, I have set my hand and affixed my seal of office at Dublin, Ohio, on this 22nd day of Decemer, 2015.

Whitney Layne

Whitney Layne, Notary Public

In and for the State of Ohio

My Commission expires May 4, 2020

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